

REMARKS

This paper is a timely response to the Final Office Action mailed May 24, 2004.

Amendments to the claims

Claim 12 has been amended to replace “first signal-decoding unit” with “signal-decoding unit” and to replace “second signal-coding unit” with “signal-coding unit.” The Applicant submits that this amendment is being made to address the Examiner’s objection to the claim and, therefore, is being made to comply with a requirement of form expressly set forth in the Office Action. Therefore, the Applicant submits that the amendment to Claim 12 should be entered, as provided under 37 C.F.R. 1.116(b). The Applicant further submits that this amendment adds no new matter to the application.

Claim Objections

The Examiner objects to Claim 12 due to informalities. As discussed above, Claim 12 has been amended to address these alleged informalities and, therefore, the objection to Claim 12 should be withdrawn. The Applicant submits that the amendment to Claim 12 does not narrow the scope of the claim and was not made in response to a rejection under 35 U.S.C. 101, 102, 103, or 112.

35 USC § 103 rejections

Claims 5 and 12-15

In section 5 of the Action, the Examiner rejects Claims 5 and 12 - 15 under 35 U.S.C. 103(a) as being unpatentable over Berwanger et al., U.S. Patent No. 6,611,749 (hereinafter “Berwanger”). The Applicant traverses this rejection as follows.

Berwanger has a grant date of August 26, 2003, which is after the filing date of January 29, 2001 of the present application. Therefore, at best, Berwanger must be considered as 102(e) prior art. However, the Applicant submits that the priority date of the present application predates Berwanger, so the Applicant submits that Berwanger is not prior art to the present application under 35 U.S.C. 102 or 103.

Berwanger is a U.S. national phase application of PCT/DE99/03951. Berwanger has a 35 U.S.C. 371 date of: August 14, 2001; an international filing date of: December 6, 1999; and a PCT publication date of June 22, 2000. According to MPEP 706.02(f)(1), since Berwanger has an international filing date earlier than November 29, 2000, the appropriate 35 U.S.C. 102(e) date is the 35 U.S.C. 371 date of August 14, 2001. Further, if the Examiner wishes to rely on the PCT publication date, that date is June 22, 2000. Please note that these dates are taken from the front page of the U.S. patent for Berwanger.

The present application has a U.S. filing date of January 29, 2001. Therefore, the filing date of the present application, January 29, 2001, predates the 35 U.S.C. 371 date of Berwanger, August 14, 2001. Therefore, under U.S. patent law, Berwanger is not proper 102(e) prior art for the present application. Therefore, the Applicant requests that the Examiner withdraw all claim rejections based on Berwanger.

The Applicant notes that Berwanger is based on a PCT application that published on June 22, 2000. Therefore, if the Examiner wishes to rely upon this PCT publication for rejecting any claims, the Applicant perfects the priority date of the present application, which is earlier than the PCT filing date of Berwanger, as provided under 35 U.S.C. 119 as follows.

The Applicant notes that the updated filing receipt for the present application, mailed on August 10, 2001, indicates that the present application claims the benefit of the Italian application, RM 2000A000069, filed on February 14, 2000. Enclosed herewith is a certified copy of Italian Application No. RM 2000A000069 showing a filing date of

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February 14, 2000. Also enclosed herewith is a certified English translation of Italian Application No. RM 2000A000069. This English translation is enclosed to assist the Examiner in understanding the scope of the disclosure of Italian Application No. RM 2000A000069 as it pertains to the present application.

Therefore, the Applicant submits that the rejection of Claims 5 and 12-15 under 35 U.S.C. 103(a) based on Berwanger is improper, since Berwanger does not constitute proper prior art to the present application. Therefore, the Applicant respectfully requests that the Examiner withdraw the rejection of Claims 5 and 12 - 15.

Claims 2-4 and 9-11

In section 6 of the Action, the Examiner rejects Claims 2-4 and 9-11 under 35 U.S.C. 103(a) as being unpatentable over Berwanger in view of Engelmayer, U.S. Patent No. 6,018,313. The Applicant submits that this rejection is improper for reasons similar to those presented above. That is, the Applicant submits that Berwanger does not constitute proper prior art to the present application. Therefore, the Applicant submits that the rejection of Claims 2-4 and 9-11 under 35 U.S.C. 103(a) based on Berwanger in view of Engelmayer is improper and respectfully requests that the Examiner withdraw the rejection of Claims 2-4 and 9-11.

* * *

In view of the above, reconsideration of the rejection of Claims 2-7 and 9-15 and allowance of all claims of the application are respectfully solicited. Prompt issuance of a Notice of Allowance is respectfully solicited,

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The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patent P.O. Box 1450 Alexandria, VA 22313-1450 on

June 28, 2004

(Date of Deposit)

Ross A. Schmitt

(Name of Person Depositing)

Ross A. Schmitt

6-28-04
Signature

Date

Respectfully submitted,

Ross A. Schmitt

Ross A. Schmitt

Attorney for Applicant

Reg. No. 42,529

LADAS & PARRY

5670 Wilshire Blvd., Suite 2100

Los Angeles, CA 90036

(323)934-2300

Enclosures:

- Certified Copy of Italian Application No. RM2000A000069
- Certified English translation of Italian Application No. RM2000A000069
- Postcard